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MEETING  
STATE OF CALIFORNIA  
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD  
PERMITTING AND ENFORCEMENT COMMITTEE

COPY

Board Room  
8800 Cal Center Drive  
Sacramento, California

Wednesday, March 6, 1996  
9:30 a.m.

Janet H. Nicol  
Certified Shorthand Reporter  
License Number 9764

APPEARANCES

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COMMITTEE MEMBERS PRESENT:

Robert C. Frazee, Committee Chairman  
Paul M. Relis

BOARD MEMBER PRESENT:

Daniel G. Pennington

STAFF PRESENT:

Ralph Chandler, Executive Director  
Don Dier  
Sadie Galos  
Virginia Rosales  
Marge Rouch  
Tracy Webb, Committee Secretary  
Clint Whitney

PUBLIC SPEAKERS:

Evan Edgar, CRRRC  
Michael Robinson, Allan Company  
Larry Sweetser, Norcal

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P R O C E E D I N G S

COMMITTEE CHAIRMAN FRAZEE: The meeting will come to order, please.

This is the March 6th meeting of the Permitting and Enforcement Committee of the Integrated Waste Management Board.

We will have a roll call, please.

COMMITTEE SECRETARY WEBB: Board Members Pennington.

BOARD MEMBER PENNINGTON: Here.

COMMITTEE SECRETARY WEBB: Relis.

COMMITTEE MEMBER RELIS: Here.

COMMITTEE SECRETARY WEBB: Chairman Frazee.

COMMITTEE CHAIRMAN FRAZEE: Here.

Just an announcement, Mr. Pennington is not a member of the committee. At this point he's sitting in this morning. With the departure of Mr. Egigian we're down to a two-member committee, which is probably good in that we have -- I mean, it's not good, but the fact that we have a very short agenda will make it a little easier to get through things today.

Any ex parte communications?

COMMITTEE MEMBER RELIS: I just received a letter from Eric Sunswheat on, this one is on Cold Creek, and also on the matter before us related to AB 59, the enforcement of

1 our October deadline. At least I think it is. It's  
2 voluminous.

3 COMMITTEE CHAIRMAN FRAZEE: We have the same  
4 letter as directed to all of the committee members and so we  
5 can enter that into the record.

6 And you have a copy of that already?

7 And then the other one this morning is a letter  
8 from the Environmental Services Joint Powers Authority  
9 signed by Marcia Basque on the issue of AB 59.

10 Now are we ready to proceed with the first item?

11 Did you have anything before we proceed this  
12 morning?

13 Later on we will.

14 Just for the agenda today a number of items have  
15 been pulled and those are Items 2, 4, 6, 7 and 8, so that  
16 takes the heart out of the agenda today.

17 And again the reminder if anyone wishes to speak  
18 to the committee we would appreciate filling out a speaker  
19 slip in the back of the room and bringing it forward to the  
20 committee secretary.

21 So then let's proceed with Item 1, which is  
22 consideration of concurrence in the issuance of a revised  
23 solid waste facilities permit for the North Fork Transfer  
24 Station, Madera County.

25 Staff report.

1 MS. ROSALES: Good morning. Virginia Rosales with  
2 the Permits Branch.

3 Item No. 1 is for consideration of concurrence in  
4 the issuance of a revised solid waste facility permit for  
5 the North Fork Transfer Station in Madera County.

6 The owner, Madera County, the contract operator,  
7 Madera Disposal Systems Incorporated.

8 The components of the project include: An  
9 incremental increase in tonnage from approximately 25 tons  
10 per day up to daily average of 29 tons with a peak of 60  
11 tons per day, thereby changing the operation from a small  
12 volume to a large volume transfer station; extend the hours  
13 of operation from 9:00 a.m. through 5:00 p.m. to 7:00 a.m.  
14 through 6:00 p.m.; implementation of a household hazardous  
15 waste screening program; and modify the facility's design by  
16 expanding the existing building and installation of  
17 household hazardous waste storage locker.

18 The facility is open to the public 9:00 a.m. to  
19 5:00 p.m. Thursday through Monday. The facility may operate  
20 on the same days, two hours earlier each morning, one hour  
21 later each afternoon for purposes of special arrangement  
22 loads and county operator use.

23 At the time this item went to print staff had not  
24 received the LEA statement relative to consistency with  
25 waste diversion or the clarification letter from the Madera

1 County Environmental Committee chairman that is mentioned on  
2 page four of the agenda item.

3 Board staff have since received and reviewed those  
4 documents along with an update of proposed permits and  
5 recommends concurrence in the issuance of the proposed  
6 permit.

7 For the record the update of proposed permits and  
8 revised Permit Decision No. 96-102 have been provided to you  
9 this morning here. There are some copies on the back table  
10 for those parties that are interested. These documents will  
11 be included in the Board item packet.

12 Staff's findings.

13 Number one. The facility is described in the 1994  
14 Madera County Solid Waste Management Plan. Based on this  
15 information staff believes that the requirements of the PRC  
16 50000 have been met.

17 Number two. In a letter dated February 16th,  
18 1995, the Madera County Planning Department verified that in  
19 1983 the Planning Commission and Board of Supervisors  
20 rezoned and amended the Madera County General Plan and  
21 approved Conditional Use Permit 83-61 to allow the transfer  
22 station.

23 Board staff concludes that the requirements of PRC  
24 50000.15 have been met.

25 Number three. In accordance with LEA Advisory No.

1 28 the LEA has submitted a statement indicating there is no  
2 evidence that the issuance of the proposed permit would  
3 prevent or substantially impair the jurisdiction's ability  
4 to achieve their waste diversion goals.

5           Number four. The Madera County Planning  
6 Department acting as the lead agency prepared a mitigative  
7 negative declaration indicating no adverse environmental  
8 impacts were anticipated from the project.

9           Mitigation measures were made a condition of the  
10 approval of the proposed project.

11           Notice of determination was filed with the county  
12 clerk on August 28th, 1995.

13           The Madera County Environmental Committee's  
14 chairman has submitted a letter clarifying how the  
15 decision-making body considered the potential impacts  
16 associated with an increase in tonnage, extended hours of  
17 operation, and the acceptance of household hazardous waste.

18           Board staff have reviewed this letter, gathered  
19 and analyzed the supporting documents referenced in the  
20 letter and determined that the CEQA analysis prepared by the  
21 lead agency is adequate for the Board's evaluation of the  
22 project and for those project activities which are within  
23 this agency's expertise and/or powers or which are required  
24 to be carried out or approved by the Board.

25           Number five. Board staff, in conjunction with the



1 LEA staff, inspected the facility on February 15th, 1996.  
2 Two violations of Public Resources Code were found, however  
3 no violation of State Minimum Standards.

4 The issuance of the proposed permit would correct  
5 the two violations of the Public Resources Code.

6 Board staff have reviewed the proposed permit and  
7 supporting documentation and have found them to be  
8 acceptable for consideration by the Board.

9 Therefore, staff recommends that the Board adopt  
10 Solid Waste Facility Permit Decision No. 96-102, concurring  
11 in the issuance of Solid Waste Facilities Permit No.  
12 20-AA-001.

13 The LEA, Ms. Jill Nishi, the contract operator,  
14 Mr. Charles Youngclaus, the consultant, Mr. Wayne Pearce,  
15 are here to answer any questions you may have.

16 This concludes staff's presentation.

17 COMMITTEE CHAIRMAN FRAZEE: Any questions on this  
18 item?

19 There's apparently no one here to be heard on  
20 this.

21 COMMITTEE MEMBER RELIS: Mr. Chair, I'll move  
22 concurrence in Permit Decision 96-102.

23 COMMITTEE CHAIRMAN FRAZEE: And I will second.

24 And if there's nothing more, the secretary will  
25 call the roll, please.

1 COMMITTEE SECRETARY WEBB: Board Members  
2 Pennington.

3 BOARD MEMBER PENNINGTON: I can't vote.

4 COMMITTEE CHAIRMAN FRAZEE: He can't vote. Just  
5 the two of us.

6 COMMITTEE SECRETARY WEBB: I'm sorry. Oh, okay.  
7 Board Members Relis.

8 COMMITTEE MEMBER RELIS: Aye.

9 COMMITTEE SECRETARY WEBB: Chairman Frazee.

10 COMMITTEE CHAIRMAN FRAZEE: Aye.

11 The motion is carried.

12 Without objection we'll recommend this item to the  
13 consent calendar for the full Board.

14 Now we will jump to Item 5, I guess.

15 MR. WHITNEY: We have Item 3.

16 COMMITTEE CHAIRMAN FRAZEE: Okay. I guess that  
17 does come after 2, doesn't it?

18 Item 3, which is the consideration of the adoption  
19 of the negation declaration and concurrence in the issuance  
20 of a solid waste facility permit with Chester/Lake Almanor  
21 Solid Waste Transfer Station, Plumas County.

22 As I understand this item, because we're the lead  
23 agency, this must go on to the full Board regular agenda for  
24 a vote; is that correct?

25 MR. WHITNEY: Yes. It's my understanding.

1 COMMITTEE CHAIRMAN FRAZEE: Staff report, please.

2 MS. GALOS: Yes. Good morning, Mr. Chairman and  
3 committee members. I'm Sadie Galos of the Permits Branch.

4 This item is in regard to the consideration of  
5 adoption of the negative declaration and concurrence in the  
6 issuance of a new solid waste facility permit for the  
7 Chester/Lake Almanor Solid Waste Transfer Station in Plumas  
8 County.

9 The Plumas County Department of Public Works is  
10 requesting a new solid waste facility permit.

11 The transfer station is located at the  
12 intersection of Highway 36 and County Road 322 in East  
13 Chester and covers 3.75 acres.

14 The Plumas County Department of Public Works is  
15 the owner and operator of the facility and Feather River  
16 Disposal is the contract operator.

17 The facility is opened to both the public and  
18 franchise haulers and will be permitted to accept a maximum  
19 of 99 cubic yards of waste per day. Waste will then be  
20 transferred to the Lockwood Landfill in Nevada.

21 The operator submitted an application package for  
22 a new permit on August 14th of last year. The LEA accepted  
23 the package and deemed it complete on August 29th, 1995.

24 The facility began operating on September 15th,  
25 1995, without a solid waste facility permit.

1           The LEA then issued a notice and order to the  
2 operator on October 19th, 1995, requiring the operator to  
3 obtain a permit within 150 days.

4           The proposed permit was received by the Board on  
5 November 15th, 1995.

6           Since the Board has 60 calendar days to concur in  
7 or object to the issuance of a solid waste facility permit,  
8 the last day the Board could act would have been January  
9 15th, 1996. However, prior to concurring in the issuance of  
10 the permit the Board must comply with the requirements of  
11 the California Environmental Quality Act, or CEQA.

12           When issuing and later amending the use permit for  
13 the facility Plumas County determined that there's no  
14 possibility of the activities they were approving would have  
15 a significant effect on the environment.

16           These findings are stated in the notices of  
17 exemption filed by the County, which cites CEQA guidelines,  
18 California Code of Regulation Section 15061(b) and 15301.

19           Board staff were unable to make the same  
20 determination regarding the activities described in the  
21 proposed permit based on the information contained in the  
22 permit package.

23           At the December 7th, 1995, Permitting and  
24 Enforcement Committee meeting the Board directed staff to  
25 complete an initial study for the proposed permit and, after

1 the initial study and any required documentation were  
2 completed, that staff bring the proposed permit to the  
3 committee and Board for consideration.

4 CEQA guidelines allow that if a lead agency does  
5 not have time to finish the CEQA process within the permit  
6 time limit they are not required to accept an application  
7 for filing until such time as progress is sufficient to  
8 enable the lead agency to finish CEQA compliance for the  
9 project.

10 The Environmental Review Section staff prepared  
11 and circulated a draft initial study on January 3rd, 1996,  
12 to gather information. And based on the information that  
13 they gathered during that period they determined that  
14 impacts resulting from the project would not be significant.

15 The Environmental Review Section staff prepared  
16 and circulated a final initial study and proposed a negative  
17 declaration on January 31st, 1996.

18 The state agency review period ended March 1st,  
19 1996.

20 The only comment received was from Caltrans  
21 stating that the described operation of a small volume  
22 transfer station would not significantly impact highway  
23 facilities.

24 The public review period doesn't end until March  
25 7th. Any comments received after the committee meeting will

1 be provided to the full Board with any required responses.

2           The LEA and Board staff have determined that the  
3 facility is in compliance with State Minimum Standards, is  
4 in compliance with the Plumas County Solid Waste Management  
5 Plan and is consistent with the Plumas County General Plan  
6 and the waste diversion goals of AB 939.

7           The operation of the transfer station minimizes  
8 the acceptance of waste at the Chester and Gopher Hill  
9 Landfills, allows the transfer of waste out of state and  
10 lessens the need to site and develop new landfills in the  
11 region.

12           Implementation of the solid waste management plan  
13 is expected to have a net beneficial effect on environmental  
14 impacts in the region.

15           In conclusion, staff recommend that the Board  
16 adopt the negative declaration, Resolution No. 96-105, and  
17 after adoption of the negative declaration adopt Permit  
18 Decision No. 96-104, concurring in the issuance of a new  
19 Solid Waste Facilities Permit No. 32-AA-0022, for the  
20 Chester/Lake Almanor Solid Waste Transfer Station.

21           The Local Enforcement Agency or operator  
22 representative are not present today. However, Mark De Bie,  
23 of our Environmental Review Section, is here to answer any  
24 questions with regard to CEQA.

25           And that concludes my presentation.

1 COMMITTEE CHAIRMAN FRAZEE: Okay.

2 COMMITTEE MEMBER RELIS: Mr. Chair, I don't have  
3 any comments directed to the LEA, just an observation.

4 I'm glad things are in order now. It is a shame  
5 that the project or this process required going back and  
6 doing this initial study. I think it could have been  
7 avoided. I'm not faulting staff in this case.

8 It's just I hope in our subsequent work with LEAs  
9 and local parties that we'll reach an understanding to the  
10 degree that these types of matters can be avoided because  
11 they are costly and cumbersome time wise.

12 And so with that, I have no other concerns.

13 COMMITTEE CHAIRMAN FRAZEE: Just a general  
14 question of staff. It's not totally related to this item.

15 As we move through our slotting process a minor  
16 transfer facility is probably going to fall somewhere down  
17 the line, isn't it, in the executive director's approval?

18 EXECUTIVE DIRECTOR CHANDLER: That's right. I  
19 think Agenda Item No. 10 speaks to that in more detail  
20 around that. But your question is --

21 COMMITTEE CHAIRMAN FRAZEE: We haven't done it  
22 yet, but that --

23 EXECUTIVE DIRECTOR CHANDLER: Right.

24 COMMITTEE CHAIRMAN FRAZEE: Probably where we're  
25 headed. So then the question I guess relates to what

1 happens in an instance like this where the facility was up  
2 and operating ahead of time and it hadn't been submitted?

3 EXECUTIVE DIRECTOR CHANDLER: To either the LEA  
4 for a registration or notification or whatever ultimate tier  
5 that they fall into, in other words, you've got a facility,  
6 small transfer station, if I understand your hypothetical,  
7 and it hasn't been brought forward to the LEA or the LEA  
8 hadn't brought it through the tiered structure, yet it's  
9 operational, what would the -- well, I think just as our  
10 current procedures would require, that would be an issue  
11 that the LEA would be evaluated against relative to having  
12 again an operational facility outfit that's not properly  
13 permitted, even at the lower slotted level.

14 COMMITTEE CHAIRMAN FRAZEE: The fact that it's a  
15 lower slot level would not negate the need to do the  
16 environmental -- the CEQA compliance that we went through in  
17 this one?

18 EXECUTIVE DIRECTOR CHANDLER: No.

19 MR. WHITNEY: I think in some cases for our permit  
20 purposes the lower tiers do not require for our purposes the  
21 CEQA process, but that does not relieve them, as I  
22 understand it, from any local CEQA process if it still  
23 qualifies as a project and that kind of thing. So that was  
24 the intent of the tiers is to eliminate some of those steps  
25 as far as our permit was concerned on the lower tiers, as I



1 understand it.

2 COMMITTEE CHAIRMAN FRAZEE: Refresh my memory on  
3 how we got to be the lead agency for CEQA process? Did they  
4 fail or refuse to do it or what?

5 EXECUTIVE DIRECTOR CHANDLER: I think Ms. Galos  
6 covered it in her presentation.

7 My recollection was that staff could not find any  
8 documentation in the original package that even an initial  
9 study had been completed and felt that therefore CEQA had  
10 not been complied with to even make the determination that  
11 it was excluded. Therefore, we didn't feel comfortable  
12 bringing it forward to the Board with a recommendation for  
13 approval on those grounds and took over the lead agency  
14 responsibility, completed the initial study, as you can see  
15 today, recommended the negative declaration approach. And  
16 so it's back before you on that path.

17 MS. TOBIAS: Let me also add on to something that  
18 Mr. Whitney said in terms of a CEQA compliance and the  
19 tiers. It's not so much that the Board wouldn't require  
20 CEQA, because any agency making a discretionary decision, of  
21 course, has to comply with CEQA. So I don't think that's  
22 what he meant to say.

23 But generally what happens is the facilities that  
24 fall into the lower tiers are going to have a lesser impact  
25 on the environment so they're going to probably more likely

1 be operating under an exemption from CEQA or possibly a neg  
2 dec or whatever. So it's unlikely that we would be seeing  
3 this kind of situation once everybody gets used to the  
4 system.

5 Part of the problem here is just recalcitrant  
6 local agencies who don't really like CEQA and who, you know,  
7 have their own ability to adopt what they want, but it may  
8 not satisfy our legal responsibilities. So we've worked  
9 pretty closely with the CEQA section here to make sure that  
10 our decisions are legally adequate in that sense.

11 But I think the tiering will solve some of these  
12 problems.

13 COMMITTEE CHAIRMAN FRAZEE: Who paid for the CEQA  
14 work in this instance? Would we absorb that?

15 EXECUTIVE DIRECTOR CHANDLER: I would assume that  
16 we did, but I'll ask Mr. Dier. And he's nodding.

17 How many hours of staff time went into this?

18 MR. DIER: Don Dier, manager of the Permits  
19 Branch.

20 Today we have absorbed the cost, but I believe we  
21 have been asked to look into the possibility of cost  
22 recovery. We can charge back to the operator on that. So  
23 we are investigating that.

24 COMMITTEE CHAIRMAN FRAZEE: It just seems like it  
25 might leave the door open for jurisdictions to avoid the

1 cost by not doing it and we go through this process of a  
2 notice and order and 150 days and then we end up paying for  
3 it.

4 MS. TOBIAS: Well, I think in this case we did and  
5 there's been one or two others, mostly all coming from the  
6 same county. So I think it's more of a question and I think  
7 it's something we're working on with this county to get up  
8 to a level of CEQA analysis.

9 Also if my memory is correct, it may not be, I  
10 don't think we have that many more facilities from this  
11 county. So at someplace we're trying to bring all the  
12 facilities up to date in terms of the permits.

13 So I think, yes, it's possible that the counties  
14 or cities might want us to do the CEQA, but generally I  
15 don't think they want to absorb the cost of time to get it  
16 all the way up here and have us stop and do the documents.  
17 So my sense from working with the Permits staff is this is  
18 more of an anomaly at this time.

19 COMMITTEE MEMBER RELIS: Without sounding too  
20 mercenary on this, didn't we -- don't we have an arrangement  
21 with LEAs in such matters to recover costs for this type  
22 of --

23 EXECUTIVE DIRECTOR CHANDLER: We do when we  
24 actually assume the responsibilities of becoming the EA. We  
25 then of course charge back to the county the full complement

1 of services that we provide.

2 We did not de-designate the LEA in this area with  
3 regard to their CEQA responsibilities like we did with West  
4 Covina. So we did not go through the steps of necessarily  
5 billing back the hours.

6 But obviously Mr. Dier has looked into it and  
7 that's an avenue we may want to pursue, if for no other  
8 reason to send that signal.

9 COMMITTEE CHAIRMAN FRAZEE: Because I think you  
10 mentioned West Covina. In that case we were prepared to  
11 bill back the jurisdiction for the cost of CEQA documents.

12 EXECUTIVE DIRECTOR CHANDLER: Correct.

13 COMMITTEE MEMBER RELIS: They were used to  
14 spending lots of money down there.

15 EXECUTIVE DIRECTOR CHANDLER: That's right.

16 COMMITTEE CHAIRMAN FRAZEE: Okay. The motion is  
17 in order. First of all a motion to adopt a negative dec; is  
18 that correct?

19 COMMITTEE MEMBER RELIS: Mr. Chairman, I'll move  
20 adoption of the Resolution No. 96-105, concerning the  
21 negative declaration for Chester/Almanor Solid Waste  
22 Transfer Station.

23 COMMITTEE CHAIRMAN FRAZEE: And second by the  
24 chairman.

25 Call the roll on that, please.

1 COMMITTEE SECRETARY WEBB: Board Member Relis.

2 COMMITTEE MEMBER RELIS: Aye.

3 COMMITTEE SECRETARY WEBB: Chairman Frazee.

4 COMMITTEE CHAIRMAN FRAZEE: Aye.

5 The motion carries.

6 COMMITTEE MEMBER RELIS: And I'll then ask that we  
7 concur on Permit Decision No. 96-104, a new solid waste  
8 facility permit.

9 COMMITTEE CHAIRMAN FRAZEE: Without objection  
10 we'll substitute the roll call on that.

11 And this item will not be on the consent calendar  
12 then. It will go directly to the Board.

13 Okay. Now we're ready to go to 5; is that  
14 correct? Okay. And Item 5 is the consideration of a new  
15 site for the solid waste disposal and codisposal site  
16 cleanup program, also known as the AB 2136 program.

17 Staff report, please.

18 MS. ROUCH: Good morning, Chairman Frazee and  
19 Member Relis and Member Pennington.

20 Today the solid waste disposal and codisposal site  
21 cleanup program is bringing you one illegal disposal site  
22 for consideration. The site is located in Butte County.  
23 And if you approve the project it will be a Board-managed  
24 cleanup.

25 The site is less than one acre with approximately

1 4,000 tons of waste on it. The site was created by a local  
2 garbage hauler, who hauled for the City of Paradise.

3 The waste disposed on the site is municipal solid  
4 waste, wood waste, construction demolition and debris and  
5 burn ash.

6 At one time the site has caught on fire and there  
7 are residences nearby as indicated on the map.

8 The responsible party has signed an agreement with  
9 the County to clean the site up, but as of this time he has  
10 not done it. He appears to be ignoring the agreement that  
11 he's a part of.

12 Cost recovery should be pursued for this site.  
13 The estimated cost is \$300,000 and work would probably be  
14 done with our new contractors after the Board approves them  
15 later this spring.

16 Staff recommends funding of this site.

17 COMMITTEE CHAIRMAN FRAZEE: Okay. Any questions?

18 COMMITTEE MEMBER RELIS: Yes, I have a question on  
19 the cost recovery side of it.

20 The way I read that parcel map, there are a number  
21 of single-family residences on smaller lots and then it  
22 looks to me like this is part of a larger parcel of 29  
23 acres; is that correct?

24 MS. ROUCH: Yes.

25 COMMITTEE MEMBER RELIS: Now, in thinking about

1 cost recovery, we are putting out \$300,000 of State funds to  
2 clean this up for a private party. I'm assuming, even  
3 though parts of it are hilly of the site in question, what  
4 is the relationship of our accessing the value of the larger  
5 parcel in relation to the specific area that we're treating?

6 MS. TOBIAS: Well, I think what we're going to do  
7 in a lot of these cases, Mr. Relis, is probably pursue a  
8 lien on the property. We've been talking quite a bit with  
9 the 2136 staff and then also with the tire staff in terms of  
10 whether we can really recover on a lot of these cleanup  
11 sites and a lot of them are just not going to lend  
12 themselves to recovery. We're going to spend a lot of money  
13 going after the judgment and then, you know, getting  
14 nothing.

15 So what we'll probably be pursuing where there  
16 seems to be some future value, as in this case, to the site,  
17 we'll probably pursue more of a penalty which will turn into  
18 a lien so if property is sold or used in some way then we  
19 can recover our money.

20 COMMITTEE MEMBER RELIS: Because I'm assuming, I  
21 haven't been out there, but the residences neighboring this  
22 site, 29 acres could be a subdivision after it's cleaned up  
23 and have considerable value.

24 MS. TOBIAS: As I recall our discussion on this  
25 one, but, Marge, please correct me if I'm wrong, that this

1 does lend itself, unlike some of the other ones. I mean, if  
2 the properties are way out in the desert or they have some  
3 kind of steep slope or something like that, I mean there's  
4 just not much point in even getting a lien on the property.

5 In this case I think there's the potential for  
6 some future use of the property and so this is one that we  
7 would probably pursue.

8 I don't know if Marge wants to add anything to  
9 that.

10 MS. ROUCH: It's my understanding that the County,  
11 is it the district attorney in the County, has showed an  
12 indication toward cost recovery probably on our behalf. And  
13 but I can't confirm that.

14 Mr. Bird, the LEA, is not here that I can see. I  
15 have heard this and I was going confirm that, but we would  
16 be referring any information we have to Kathryn.

17 COMMITTEE MEMBER RELIS: I would just observe,  
18 this is going to be a clean closure.

19 MS. ROUCH: Yes.

20 COMMITTEE MEMBER RELIS: So there shouldn't be any  
21 further problems with the site after we're done with it.

22 MS. TOBIAS: Again that would be a distinction.  
23 On a lot of the other ones that all we've really done is  
24 made them safe to leave there so that they wouldn't really  
25 be useful unless somebody came in and did a clean closure.



1 So this is one of the few that probably lends itself to  
2 that.

3 COMMITTEE CHAIRMAN FRAZEE: This recalls a  
4 discussion I had perhaps almost a year ago on these. In  
5 this case we are invited in, if you will, by Butte County.  
6 They're asking us to assist in this. And I had suggested at  
7 that time that counties and cities have an easier procedure  
8 than we do in imposing liens on property.

9 And has that option been pursued?

10 As I understand it, we have to go through a  
11 procedure of getting a judgment where a nuisance cleanup by  
12 a local agency is sort of a routine process that they can do  
13 without it.

14 MS. TOBIAS: I think that's what Marge was  
15 referring to in terms of the DA helping us on this  
16 particular site.

17 We don't always have the cooperation of the DAs,  
18 so but in this case I think we do.

19 COMMITTEE CHAIRMAN FRAZEE: So we will be pursuing  
20 that option then of having them impose the lien on our  
21 behalf?

22 EXECUTIVE DIRECTOR CHANDLER: I would recommend  
23 that by the Board meeting we have more information for you  
24 on that very point. I mean, we hear the message which is we  
25 need to get better clarity from the County if they're going

1 to pursue the option at the local level of pursuing or, as  
2 you say, reaching that point of putting the nuisance order  
3 out there.

4 As Marge indicated, it sounds like those  
5 communications are starting with the DA's office and I'm  
6 pretty confident by the end of the month we should be able  
7 to have more information for you. Let's bring that bit of  
8 information back.

9 Clearly I think the site has merit and we all seem  
10 to be in agreement that it's one that we need to look at.  
11 This question of cost recovery we can do a little bit more  
12 work on, providing you more information along the lines  
13 you're asking for.

14 COMMITTEE CHAIRMAN FRAZEE: There's never a  
15 problem of accessing a site like this from a legal  
16 standpoint? What if the property owner tells our contractor  
17 you can't have access to my property?

18 MS. ROUCH: We do not go on the site before we get  
19 property access. At this point we have always gotten it  
20 willingly.

21 COMMITTEE MEMBER RELIS: Is that a formal process?

22 MS. TOBIAS: The way it works is generally first  
23 you ask for the consent of the landowner. If the landowner  
24 does not give the consent then it depends on if we're  
25 cleaning up a health and safety concern.

1           If we are, we can obtain a warrant to enter the  
2 property. And in fact there's a site in San Diego at this  
3 time that may get to that point, and we would have to go to  
4 court to get that warrant. But the State does have the  
5 ability to do that.

6           COMMITTEE CHAIRMAN FRAZEE: Having been on the  
7 losing end of one of those situations where the jurisdiction  
8 was denied access to the property and the court concurred  
9 and we were unable to abate the nuisance, I'm always a bit  
10 nervous about these things.

11           MS. TOBIAS: I think one of the differences here,  
12 the one in San Diego is a case where there really is a  
13 health and safety issue of gas. So I feel somewhat  
14 confident that the court would understand our need to go on  
15 it, and I think some of the surrounding property owners  
16 would probably be there to support us if we needed to do  
17 that.

18           But you're right, it is a judicial decision.

19           COMMITTEE CHAIRMAN FRAZEE: Thank you.

20           COMMITTEE MEMBER RELIS: Mr. Chair, I'm prepared  
21 to make a motion.

22           COMMITTEE CHAIRMAN FRAZEE: Okay.

23           COMMITTEE MEMBER RELIS: I would say that we  
24 concur in Resolution 96-110 for approval of cleanup of sites  
25 under the solid waste disposal and codisposal site cleanup

1 program.

2 COMMITTEE CHAIRMAN FRAZEE: Motion seconded by the  
3 chairman.

4 COMMITTEE SECRETARY WEBB: Board Member Relis.

5 COMMITTEE MEMBER RELIS: Aye.

6 COMMITTEE SECRETARY WEBB: Chairman Frazee.

7 COMMITTEE CHAIRMAN FRAZEE: Aye.

8 Motion is carried. I guess there's no reason why  
9 this can't go on consent.

10 EXECUTIVE DIRECTOR CHANDLER: I'd like to bring it  
11 back just so I can fill you in on the cost recovery.

12 COMMITTEE CHAIRMAN FRAZEE: Oh, okay. We'll not  
13 recommend consent to the full Board.

14 Okay. Now we're ready to go to Item 9, which is  
15 consideration of the delegation of authority to the  
16 executive director to concur in the issuance of standardized  
17 permits.

18 Staff report, please.

19 MR. DIER: Mr. Chairman, this item regards --  
20 we've talked about tiered permitting earlier this morning,  
21 this has to do with delegation of the standardized permits  
22 for approval by the executive director.

23 The standardized permit, as you know, lies one  
24 level below the full permit. And in order to obtain that  
25 permit the operator must submit a package to the LEA which

1 is complete and correct with regard to the specifications  
2 and our regulations.

3 The standardized permits have prescribed uniform  
4 conditions which LEAs do not have an opportunity to alter.

5 Similar to the full permit, though, the Board  
6 still has the role of concurring in its issuance and so  
7 staff does review the permit package and the permit for  
8 conformance with all of our requirements.

9 However, as a part of the tiered regulatory  
10 structure adopted by the Board last year the Board allocated  
11 only 30 days for consideration of standardized permits.

12 And given the noticing requirements for both the  
13 Board meetings and the committee meetings, quite often the  
14 30 days might be difficult in order to meet both meetings  
15 and in fact some cases, as we saw with Sonoma at the Board  
16 meeting last week, even getting on the Board agenda.

17 So what we're proposing in this item is that the  
18 Board considering delegating the concurrence in the  
19 standardized permits to the executive director.

20 We had this item before a committee last August  
21 and at that time we really didn't have any experience with  
22 standardized permits and the committee felt they would like  
23 to see what came forward before we brought the item forward  
24 to the Board.

25 So since then we've had some experience. We've

1 had five standardized permits. I would characterize the one  
2 before the Board last week as controversial, but the four  
3 that preceded it were what I would call noncontroversial.

4 And so that's our proposal is that the delegation  
5 be made for standardized permits with the same understanding  
6 that exists for modified permits that are currently  
7 delegated to the executive director and that is that if  
8 there is any controversy associated with a particular permit  
9 or if there is a request by anyone that that permit be heard  
10 by the Board, then that the permit would be scheduled for  
11 consideration by the Board. It would not be concurred in  
12 through delegation.

13 On a similar vein if, as in the Sonoma case last  
14 week, if the 30 days does not allow for scheduling on the  
15 Board agenda we would, our first action would be to request  
16 the waiver of time from the operator and LEA so that it  
17 could be scheduled for consideration.

18 And if that were not granted then we would  
19 probably try and ask permission to schedule a special  
20 meeting of the Board to consider that permit.

21 So we feel comfortable with the experience we've  
22 had with the five standardized permits so far that  
23 delegation, consideration of delegation, would be  
24 appropriate at this time.

25 We've provided a few options for the committee to

1 consider.

2 Staff is recommending Option 1, and that is a  
3 delegation of all standardized permits to the executive  
4 director.

5 Option 2 would be a limited delegation of just  
6 composting standardized permits at this time. And what that  
7 would require would be further consideration, perhaps of  
8 delegation of other standardized permits for the different  
9 activities and facilities as they're slotted.

10 As you know, composting is the only one that's  
11 fully implemented at this point. Contaminated soils are  
12 coming out now and we will, based upon the discussions of  
13 the next item, we will have further slotting in the very  
14 near future.

15 Third option would be to not delegate the  
16 authority at this time and pretty much handle it through  
17 scheduling special meetings to accommodate, if needed, to  
18 accommodate the standardized permits.

19 We failed to include the resolution number and I'd  
20 like to update the committee. It's Resolution 96-101, which  
21 would accompany staff's recommendation for the delegation of  
22 all standardized permits.

23 That's staff's presentation. I'd be happy to  
24 answer any questions.

25 COMMITTEE CHAIRMAN FRAZEE: The 30-day requirement

1 is in regulation?

2 MR. DIER: Yes; it is.

3 COMMITTEE CHAIRMAN FRAZEE: So not indicating that  
4 there would be any indication to change that, because I  
5 think things should move along in a timely manner, but if we  
6 were to change that that would involve going back and going  
7 through the process of changing the regulations?

8 MS. TOBIAS: That's correct.

9 COMMITTEE CHAIRMAN FRAZEE: If we did something  
10 instead of saying 30 days, saying at the next regularly  
11 scheduled Board meeting, that would require a change in  
12 regulation in order to do that?

13 MR. DIER: I believe so, because the reg is quite  
14 specific with regard to 30 days at this point.

15 COMMITTEE CHAIRMAN FRAZEE: Yeah. The other  
16 question that I have on this has to do with what is the  
17 standard measure of controversy. At this point we sort of,  
18 as I understand the presentation, it's sort of left up to  
19 the discretion of the executive director whether he feels  
20 that this item is of sufficient controversial nature to take  
21 to the full Board.

22 And also, you know, what is the time of when that  
23 would come up? Supposing the executive director is going  
24 down the path of saying I haven't heard any controversy on  
25 this, and on the last day we use up our time for getting it



1 on an agenda to be considered and then someone comes forward  
2 on the last day to do that. Do we need to be any more  
3 specific about what those time lines are?

4 EXECUTIVE DIRECTOR CHANDLER: Well, I know I sat  
5 with some mixed emotion as I watched the testimony in San  
6 Francisco on that composting facility because I tried to  
7 envision that same group of people in my office wanting to  
8 express their views.

9 I think Don made a very clear point in that we're  
10 not going to be looking at situations like that being dealt  
11 with outside of a Board setting. Those kinds of  
12 controversial permits are going to clearly fall into the  
13 category of coming before the Board. The applicant or the  
14 intervener simply request that they'd like this heard at the  
15 Board level and that suffices.

16 But you still raise a very good question which is  
17 sometimes you don't hear of these concerns until the 11th  
18 hour and in fact oftentimes that is the case, and you'd  
19 still have a situation where, you know, there's going to be  
20 the time frames involved.

21 I feel very strong about -- it was March 29th of  
22 almost a year ago when we adopted the general methodology  
23 and we had a lot of input that went into that template that  
24 forms the foundation of tiered permitting and I know it was  
25 very much felt that that standardized permit should be put

1 on a track that's more rapid than the 60-day permit or the  
2 full-blown solid waste facilities permit. So I think we  
3 need to hold to the integrity of that process. We just need  
4 to find a way in which everybody's needs are met and the  
5 public process isn't compromised.

6 I can't say that we've developed a criteria that  
7 we think is foolproof to determine whether it's reached that  
8 level of controversy. I know my personal view is it's going  
9 to be a very low threshold. Anyone who wishes to raise the  
10 issue to the Board, sees the item go to the Board.

11 One of the areas that I think we have done some  
12 pretty good work on and we should draw from is the Planning  
13 Committee's work. And you know how that process works. We  
14 have a lot of documents coming forward and the Planning  
15 Division developed a methodology with criteria that said we  
16 will bring items to you that we recommend for consent so  
17 that not everything moves through an arduous process at the  
18 committee level.

19 I think we can develop a similar criteria that  
20 does the kind of inquiry of the LEAs, the questioning of the  
21 surrounding community members such that we're pretty assured  
22 that if we're looking at a standardized permit that falls  
23 into the category of simply being delegated to the  
24 director's level, that we're not going to be surprised.

25 So I can only say that we're going to have, if we

1 go this route, time test that theory and see how it works.

2 COMMITTEE CHAIRMAN FRAZEE: I came along about the  
3 same time those were adopted, so I didn't have the benefit  
4 of the discussion that led up to the adoption, but was there  
5 consideration of an appeal of an executive director's  
6 decision? Was that one of the things that went into the mix  
7 or is the executive director's decision final?

8 EXECUTIVE DIRECTOR CHANDLER: I believe --

9 MR. WHITNEY: My understanding when we were  
10 developing regs, I was involved in the compost regs, is that  
11 first we were trying to accelerate the regulatory process.  
12 That's why the 30 days. The 30 days we felt comfortable  
13 with only because the decision was presumed to be delegated  
14 to the executive director. It didn't have to have the full  
15 Board process. If we had anticipated a full Board process  
16 we would have left it 60 days. So there's a presumption  
17 there that the delegation would occur whether we --

18 COMMITTEE CHAIRMAN FRAZEE: And it would be final?

19 MR. WHITNEY: Yeah. And that it would be final,  
20 the avenue for appeal would be the same one as if it were  
21 before the Board, because the executive director is acting  
22 on the Board's behalf with a formal delegation.

23 That's what the Board would be doing in this Board  
24 action is formally delegating that decision so that makes it  
25 the same level of the decision as you would make as a Board.

1 COMMITTEE MEMBER RELIS: Couple of questions.

2 One is I forget whether we had a conversation or  
3 not when we were devising this system, if there's an appeal  
4 now this would have to be heard by the full Board; that's  
5 correct?

6 EXECUTIVE DIRECTOR CHANDLER: No. I think you're  
7 referring to the maybe AB 59 where the appeal process is to  
8 appeal local decisions to the full Board, but Board  
9 decisions --

10 MR. WHITNEY: Go to the court.

11 EXECUTIVE DIRECTOR CHANDLER: Standardized permit  
12 that you just don't --

13 COMMITTEE MEMBER RELIS: Oh, no. I think  
14 you're -- strictly controversial would come to the full  
15 Board.

16 EXECUTIVE DIRECTOR CHANDLER: Sure. If there's a  
17 controversy.

18 COMMITTEE MEMBER RELIS: Now, I'm just thinking of  
19 the logistics, because that's where it's going to be  
20 problematic, the time frame. We had that discussion before.  
21 Now, the Sonoma one came to us because that was waived;  
22 right?

23 MR. DIER: Correct.

24 COMMITTEE MEMBER RELIS: So we had the cooperation  
25 of the local jurisdiction make it fit with our schedule,

1 otherwise we would have faced convening a full Board  
2 meeting?

3 EXECUTIVE DIRECTOR CHANDLER: Right.

4 COMMITTEE MEMBER RELIS: Now, if I recall, and I  
5 don't know what happened to this, didn't we discuss the idea  
6 of maybe Permits being the hearing group or did we discuss  
7 that?

8 I'm just trying to find a more nimble way, because  
9 the time frames are going to be very short to convene a  
10 meeting. Otherwise the concurrence is automatic.

11 EXECUTIVE DIRECTOR CHANDLER: Right.

12 COMMITTEE MEMBER RELIS: And we have to have four  
13 members present, a quorum, to be able to act on an appeal or  
14 a controversy, rather.

15 EXECUTIVE DIRECTOR CHANDLER: I'm not sure if that  
16 necessarily solves the problem. If you had -- we could  
17 probably pencil out a scenario where the next P and E  
18 Committee meeting is still 30 days away. It's --

19 COMMITTEE MEMBER RELIS: I'm just thinking it's  
20 going to be easier to call together two to three people  
21 than -- I mean to get a majority. Now, I don't know, this  
22 hasn't been discussed with other Board members or anything,  
23 I'm just looking at the logistics, the problem of acting  
24 quickly and how do we assure a quick response that doesn't  
25 end up just negating, you know, it's an automatic approval.

1 MR. WHITNEY: If I may, some thought about that.

2 COMMITTEE MEMBER RELIS: Yes.

3 MR. WHITNEY: First of all, if there is any  
4 controversy, that solves the problem. It goes to the Board.  
5 We have to work within the 30-day clock. So if we find out  
6 early we may have time. If we don't, we'll have to call a  
7 special Board meeting. But that's fairly clear-cut  
8 circumstance.

9 If on the other hand in the middle of the process,  
10 say on day 15 or day 20 the executive director becomes aware  
11 of a controversy, I believe as a practical matter the  
12 immediate response then, okay, are you prepared to waive.  
13 If you're not prepared to waive and there isn't enough time  
14 to deal with it in the 30-day clock then the applicant takes  
15 the chance that the executive director is going to deny the  
16 permit, because he really doesn't have any choice if --  
17 unless he wants to assume the responsibility that he has  
18 implied otherwise you would have, if there's a controversy.  
19 So as a practical matter --

20 COMMITTEE MEMBER RELIS: That's an interesting  
21 twist. I hadn't thought of it that way.

22 MR. WHITNEY: I think the natural response would  
23 be to ask for a waiver, and they'd probably get it in most  
24 cases.

25 BOARD MEMBER PENNINGTON: If they don't waive,

1 then it goes to the full Board, instead of the executive  
2 director?

3 EXECUTIVE DIRECTOR CHANDLER: If they don't waive  
4 we're still bounded by the 30-day clock and scheduling a  
5 meeting, just as -- and that's the scenario we're under  
6 right now. That's not --

7 BOARD MEMBER PENNINGTON: Can you set a deadline  
8 date, though, for submittal? Say you must submit it within  
9 the first seven days of a month.

10 MS. TOBIAS: I think that's one of the things  
11 we've been looking at for our other permits as well is to  
12 see if along with several other kind of new ways of  
13 streamlining is to consider setting an application deadline  
14 for both, for all the permits that basically says, you know,  
15 an application received by X date is deemed received on that  
16 date and goes forward, so the 30 days starts from there, the  
17 60 days starts from there. If you fall over the line you're  
18 not deemed to have actually applied until the next one.

19 That particular solution would involve going back  
20 to the LEAs as well, since they accept it first, but it  
21 would also give them the same benefit of having the full  
22 amount of time.

23 One of the problems is now in our efforts to  
24 really get these things streamlined and to the Board, we  
25 don't always get the time that we're allowed by law.

1           So that would be one approach.

2           COMMITTEE MEMBER RELIS: I think that's worth  
3 taking a hard look at because with the short time clock we  
4 need to bring as much order to it as we can.

5           The other thought was concerned the delegation on  
6 the three options and difference being initially -- now we  
7 have some experience with the standardized for compost  
8 facilities. We don't yet have the other slotting other than  
9 the soils. And I don't know how I feel at this point,  
10 whether to limit it to what we know right now, that we could  
11 go ahead and approve giving Ralph the authority in the  
12 standardized compost and soils and then wait and see how  
13 we're doing with the -- get some experience with the others.  
14 I guess I'm inclined to think that way right now.

15          MR. DIER: If I might offer, back to the  
16 definition of the standardized permit, and that is that the  
17 terms and conditions of the standardized permit are  
18 proscribed in regulations, so I don't envision any further  
19 slotting to -- it's not going to result in the ability of an  
20 LEA, whether it be for a transfer station, a MRF or anything  
21 else that might wind up in a tiered, in a standardized  
22 level, to be able to add any conditions other than what  
23 might be specified in the regulations.

24          And so in that sense it would be the permits  
25 themselves, the standardized permits, although one may be



1 for composting and another may be for transfer station,  
2 they're proscribed in the regulations, so the commonality  
3 between the different types is just whether or not there  
4 would be controversy.

5 And we've seen controversy with composting and  
6 would there be controversy with the transfer station?  
7 There's always a possibility for that, no matter what type  
8 of facility it might be.

9 COMMITTEE CHAIRMAN FRAZEE: Evan Edgar has asked  
10 to speak on this item. I think we'll do that at this point.

11 MR. EDGAR: Good morning. Evan Edgar, California  
12 Refuse Removal Council.

13 CRRC supports Option No. 1 and I think that the  
14 whole intent of the tiered permitting process was to  
15 standardize the conditions and allow the executive director  
16 to sign off on them.

17 However, any complaints should not trigger full  
18 Board concurrence. I think you've heard over the last  
19 couple of months a lot of complaints that weren't really  
20 valid. I believe that should be a type of process built  
21 into this where any complaint without merit should be weeded  
22 out and only valid concerns should come to the full Board.

23 Thank you.

24 COMMITTEE MEMBER RELIS: Just a further point then  
25 on this.

1 Mr. Chandler, I think it was mentioned now, you'd  
2 have under standardized, you have the authority to deny as  
3 well as concur; is that correct?

4 EXECUTIVE DIRECTOR CHANDLER: As are you saying  
5 right now?

6 COMMITTEE MEMBER RELIS: Well, under this  
7 proposal.

8 EXECUTIVE DIRECTOR CHANDLER: In this proposal?

9 COMMITTEE MEMBER RELIS: Yes.

10 COMMITTEE CHAIRMAN FRAZEE: In this Option 1.

11 EXECUTIVE DIRECTOR CHANDLER: I think what  
12 Mr. Dier was pointing out was the modification.

13 Is that right, Don?

14 MR. DIER: Correct.

15 EXECUTIVE DIRECTOR CHANDLER: Currently I have  
16 before us the ability to take a look at permits that are  
17 simply a modification of permits.

18 If your question is does this proposal --

19 COMMITTEE MEMBER RELIS: Proposal --

20 EXECUTIVE DIRECTOR CHANDLER: Yes. It deals  
21 with --

22 COMMITTEE MEMBER RELIS: You would have the  
23 authority to deny?

24 EXECUTIVE DIRECTOR CHANDLER: No.

25 COMMITTEE MEMBER RELIS: No, you would not?

1 MR. DIER: Well, staff --

2 EXECUTIVE DIRECTOR CHANDLER: Concur or not  
3 concur.

4 MR. WHITNEY: That is not clear in the regulations  
5 so the presumption is that you're delegating the full  
6 authority to the Board to make a decision.

7 What we're saying in the staff report if there is  
8 any controversy, and I think Mr. Chandler has indicated the  
9 threshold, if there is any request, any controversy, it  
10 would be kicked up to the Board for a hearing, so that a  
11 presumption is predominately that he'll be concurring in  
12 these permits, not denying them.

13 On the other hand there may be a circumstance, as  
14 you painted here, where that may be his only option if he's  
15 to give the Board to chance to review it.

16 COMMITTEE MEMBER RELIS: I think we need to nail  
17 this one down.

18 EXECUTIVE DIRECTOR CHANDLER: That was a pretty  
19 good explanation. What are your questions?

20 COMMITTEE MEMBER RELIS: Pardon?

21 EXECUTIVE DIRECTOR CHANDLER: I thought that was a  
22 very good explanation, so let's get real clear here. Where  
23 are you not clear, Mr. Relis?

24 COMMITTEE MEMBER RELIS: I guess in this scenario  
25 that was presented earlier, let's see, what was that? A

1 project comes to you, there's controversy. We are talking  
2 about a procedure where we'd ask the waiver --

3 MR. WHITNEY: You run out of time.

4 COMMITTEE MEMBER RELIS: -- of the time frame and  
5 then there's no indication that they want to do that.

6 MR. WHITNEY: Let's take a hypothetical from the  
7 example I was exploring earlier.

8 Let's say on day 24 during this period the  
9 executive director discovers there is indeed a controversy.  
10 He has indicated to you as a matter of accepting this  
11 delegation that there is -- that he will bring that to the  
12 Board.

13 At that point as a practical matter he has only  
14 two choices, one of which may not be possible at that time  
15 because we need ten-days' notice for a public meeting,  
16 therefore that choice is gone. Therefore he either has to  
17 deny the permit, thereby bringing the permit back to you in  
18 another 30-day clock where they'd have to refile, or concur  
19 in a permit that he has already indicated to you that as  
20 part of his assuming delegation he does not want to do  
21 because it is controversial.

22 So in order to get it before the Board, as a  
23 practical matter, his only choice is to deny it under that  
24 particular scenario.

25 I think that's what Mr. Chandler is indicating

1 would probably be the occurrence. I don't know how often we  
2 find out on day 24 or day 29.

3 COMMITTEE MEMBER RELIS: Well, often, just our  
4 experience at the Board, is most of the -- well, half the  
5 controversies emerge at the 11th hour.

6 MR. WHITNEY: Before the Board. I'm not so sure  
7 that that is true with the LEA and the staff working on  
8 these permits. I'm not sure at all. I'm not denying that  
9 or arguing with that. I'm just not sure.

10 But the point is if the applicants, from our point  
11 of view, the applicants know the rules and know the risks  
12 they take, then generally they will comply to have an  
13 orderly process. That's our presumption here.

14 If those circumstances arise, hopefully they're  
15 rare, when we have to take action that normally we wouldn't  
16 want to take in order to get it before the Board I think  
17 Mr. Chandler is indicating he would err on the side of  
18 putting it before the Board, not err on the side of taking  
19 that responsibility when there's a controversy.

20 COMMITTEE CHAIRMAN FRAZEE: Going back to the  
21 inception of the whole idea of State regulation and having  
22 an independent board, my view of what an independent board  
23 is therefore is to give some comfort level to the public  
24 that they're not being steam rolled by the bureaucracy.  
25 So we don't want to get into a situation that erases that

1 ability of the Board to at least be an appeal.

2 On the other hand, statute says that the Board,  
3 and that applies to the executive director, either must  
4 concur or not concur. You can't modify a permit. So that  
5 takes away the thing that probably triggers the need for a  
6 board like ours is bureaucrats using arbitrary standards to  
7 squeeze something out of an applicant.

8 But in this case we're delegating the authority to  
9 the executive director and he can only concur or not concur,  
10 he can't negotiate out and say if you'll go back and do  
11 this, I will then concur. That occasion will not arise, I  
12 don't think, will it?

13 EXECUTIVE DIRECTOR CHANDLER: No. And as I think  
14 Mr. Dier pointed out these are standardized terms, so  
15 they're all identical in the way they appear as far as the  
16 conditions in the facilities and the conditions that they  
17 are required to meet.

18 COMMITTEE CHAIRMAN FRAZEE: So I would be  
19 comfortable with getting this step behind us and delegating  
20 the authority across the board at this point.

21 And I think you've suggested otherwise.

22 COMMITTEE MEMBER RELIS: Well, I would just -- I'd  
23 like to, given our discussion, I'd like to see this spelled  
24 out. I'd have a better comfort level just to have it --  
25 maybe this could be done before the Board meeting.

1 COMMITTEE CHAIRMAN FRAZEE: I think we have the  
2 ability to move this on the Board without recommendation.  
3 We can do that, resolve it there.

4 MR. WHITNEY: If you wish -- I don't know what the  
5 normal procedure is for making the delegation, I haven't  
6 been here long enough. There must be some document that you  
7 use to delegate -- that we can attempt, between now and the  
8 Board meeting, to spell out this issue as clearly as we can.

9 COMMITTEE MEMBER RELIS: That's what I would like.

10 MR. WHITNEY: What we're hearing here about the  
11 issue so that when we come to the Board we'll try to address  
12 that issue in your delegation so it's explicit as to how far  
13 you want the executive director to go or not go. Would  
14 that --

15 COMMITTEE CHAIRMAN FRAZEE: With that then would  
16 you be comfortable with across-the-board delegation rather  
17 than just composting?

18 COMMITTEE MEMBER RELIS: The composting? Yes.

19 COMMITTEE CHAIRMAN FRAZEE: So I think we can move  
20 this to the Board without recommendation. I think perhaps  
21 we've benefited from this discussion. And get a document  
22 that spells out the delegation authority.

23 BOARD MEMBER PENNINGTON: Mr. Chairman, could we  
24 also ask the staff to look into this window of opportunity  
25 for submittals, so that we can deal with the time frame?

1 COMMITTEE CHAIRMAN FRAZEE: The date is the date  
2 of application, is that what triggers the 30 days? The date  
3 the application is accepted by --

4 MR. DIER: It's the date that the proposed permit  
5 is received by the Board.

6 COMMITTEE CHAIRMAN FRAZEE: By the Board.

7 EXECUTIVE DIRECTOR CHANDLER: But I think  
8 Mr. Pennington's scenario or question is is there a way we  
9 can make the effective date a different date by saying  
10 anything received in this window will have a clock that will  
11 start on this future date and therefore always allow us to  
12 begin a 30-day clock, which it really wouldn't be a 30-day  
13 clock, but something that would count the first day of 30  
14 days within this receipt window? Is that what --

15 MR. DIER: Is the request to have that fleshed out  
16 for the Board meeting? That's an idea that we're working on  
17 even on a 60-day clock and it's a bigger issue than I think  
18 we can probably bring to the Board with any resolution by  
19 the Board meeting. It is something we're considering,  
20 though, for even the 60-day clock.

21 BOARD MEMBER PENNINGTON: I think it applies to  
22 this too.

23 COMMITTEE MEMBER RELIS: I think it's really  
24 important, because I don't want to be in the midst of  
25 discussing this in a hearing where we're trying to figure it



1 out publicly, where the matter's been raised without our  
2 procedures.

3 MR. WHITNEY: If I may, I think this is a very  
4 relevant issue that we've been discussing with legal. We've  
5 had meetings on it and we're sorting out just how far we can  
6 go legally with proscribing some administrative rules,  
7 that's what we're really talking about, that are  
8 extraordinary to the regulations.

9 And our initial discussion is that there appears  
10 to be some promise that we might be able to explore or do  
11 something like that.

12 I would recommend that if we want to consider this  
13 issue with this item, this delegation, that we pull the item  
14 from the Board, let us go back, do our homework with legal  
15 and, you know, put that issue before you as well. Because  
16 that might be the one that gives you the most comfort with  
17 the delegation, ultimately, is that we're buying time with  
18 an administrative procedure in addition to the 30-day clock,  
19 which could be important to your decisions.

20 So I would recommend if you want us to do that  
21 part of it, that we pull it, give us some time to sort it  
22 out.

23 COMMITTEE MEMBER RELIS: How much time would you  
24 need? Just another -- we can take it up the following  
25 month.

1 MR. WHITNEY: It's our function of sitting down  
2 with legal and dotting the I's and crossing the T's as to  
3 what's legally possible and --

4 MS. TOBIAS: I think from our standpoint we could  
5 be back at the next meeting. This is something we've  
6 already talked about.

7 COMMITTEE MEMBER RELIS: Mr. Chair, I'd prefer  
8 that, if we could.

9 COMMITTEE CHAIRMAN FRAZEE: Okay. We will proceed  
10 down that line then if it's agreeable with everyone. So  
11 we'll take no action on this item at this point. Reschedule  
12 it. And it's already -- is it already scheduled on the  
13 Board agenda?

14 EXECUTIVE DIRECTOR CHANDLER: If it is, I hear the  
15 recommendation is to pull it until we bring Mr. Pennington's  
16 concept back to P and E next month.

17 COMMITTEE CHAIRMAN FRAZEE: Good. We'll do that.  
18 Okay. Now we're ready.

19 BOARD MEMBER PENNINGTON: Thank you, Mr. Chair.  
20 Sorry to foul your thing up.

21 COMMITTEE CHAIRMAN FRAZEE: Are we ready to go to  
22 Item 10?

23 MR. WHITNEY: Yes. Mr. Chairman, Clint Whitney,  
24 acting deputy director of the P and E Division. I'll  
25 present this item.

1 I think we have some public testimony on this one  
2 as well. You probably have some cards.

3 But let me give you a little background, set the  
4 stage and add some information that just came in by fax last  
5 night to my office.

6 This issue is really borne of AB 59, Section  
7 44002, which requires, as it happens, on October 16th, 1996,  
8 any facilities that are not permitted that at that time the  
9 LEA is required to issue a cease and desist order and the  
10 operator is not allowed to operate until the appropriate  
11 permit is secured.

12 So in effect all those facilities that either are  
13 in the hopper with the permitting process or not on the  
14 radar screen yet that are operating have to be permitted by  
15 that time or they'll be required to close.

16 So that's really the issue that's before you  
17 today.

18 What we're proposing or want to discuss with the  
19 committee to get committee's guidance is some ideas as to  
20 how to dodge this bullet, if you will, without unduly and  
21 unnecessarily closing down facilities that otherwise are not  
22 causing any kind of problems or risks to public health and  
23 safety.

24 So we have done a little staff work. We did a  
25 survey with the LEAs and it's my understanding that most of

1 the LEAs responded. And from their point of view, and the  
2 testimony you have from other industry members today may  
3 shed further light in a broader sense, but from their point  
4 of view we're really talking about problem area with small  
5 volume transfer stations, of which they identified only 12  
6 in this survey that they were really concerned about.

7 And the dilemma that they have faced is the going  
8 ahead with a full facilities permit which is required under  
9 present law or waiting for us to slot it under the  
10 presumption that these small volume transfer stations will  
11 no doubt be slotted down in the lower tiers, therefore  
12 requiring a lot less maybe CEQA activity, a lot more -- a  
13 lot less permitting activity, placing of conditions, land  
14 use requirements, and those kind of things. So they've been  
15 kind of playing the waiting game on some of these, hoping  
16 that we'll come out with the tiers, which will lessen the  
17 burden all the way around, and everybody wins.

18 The clock is ticking. It's now March. October is  
19 not that far away. So they and we are getting concerned  
20 that there are some facilities that will not make it and  
21 therefore we have some ideas that we're putting before you  
22 today.

23 The options that we've got before you, and we make  
24 a recommendation, is one, is to do nothing, just let the  
25 clock happen, leave the LEAs and the industry on their own

1 to do what they have to do to get it done. Those that don't  
2 make it, they're subject to the full force of the law on  
3 October 17th.

4 The second idea would be to pass emergency  
5 regulations. This presumes that we could legitimately  
6 declare an emergency. We have discussed this with legal and  
7 they feel comfortable that we could. Public health and  
8 safety issue being the predominant focus in that rationale.  
9 So that is an option open to us.

10 The third option, which is actually Option 1, that  
11 we discuss here, is kind of a combination of the two, is  
12 where we would try to accelerate just the slotting of the  
13 transfer station component, which would be also large volume  
14 as well as small volume. It also might include other  
15 facilities that we traditionally haven't thought of as  
16 transfer station, as CRRC has proposed, that would be green  
17 waste facilities. So we might include an analysis of that  
18 pursuant to direction of your committee and the Board on  
19 that.

20 But to go ahead on that path trying to streamline  
21 our process, working with the LEAs very closely on those  
22 that are at the biggest risk, getting them through the  
23 process and getting us through the process, and then at an  
24 appropriate time, maybe around June, we decide whether we're  
25 going to make it or not by October 16th. If we do not we

1 will still have time then to promulgate emergency  
2 regulations.

3           So I think what it amounts to from staff's point  
4 of view, we'd kind of like to have a crack at accelerating  
5 the process for this one component and see if we can put  
6 something together that will work without having emergency  
7 regulations, but still having that Plan B, just in case we  
8 find something that's out of our control. And as you  
9 recall, much of the regulatory process is not under our  
10 direct control.

11           So that's our recommendation to the committee and  
12 certainly will be guided by the discussion here.

13           We do not have a time line for these, except we do  
14 have rough estimates that we've gotten from legal.  
15 Emergency regulations, they indicate 40 to 60 days would be  
16 a normal period of time to get that done. We are talking  
17 six months or so for normal regulations, which would put us  
18 right at the wire, quite frankly.

19           COMMITTEE CHAIRMAN FRAZEE: The normal regulations  
20 would be concurrent with slotting?

21           MR. WHITNEY: No. Even if we just took out this  
22 thing, we're talking six months, probably, a total process.  
23 Some of that time is not under our control. It's that other  
24 agencies and notice periods and things like that.

25           But what we would do is we would take the tier,

1 I've forgotten the term we use for that, procedure that we  
2 analyze the tiers that was prepared by our policy office.

3 EXECUTIVE DIRECTOR CHANDLER: General methodology.

4 MR. WHITNEY: Methodology. Thank you. What we  
5 would do is we would take that methodology and see where we  
6 could cut down either steps by eliminating them or  
7 collapsing those steps in some way to save time. And we  
8 haven't had an opportunity to do that as yet, but I would  
9 expect that we would. If you take this matter to the Board  
10 for discussion, we will try to have an estimated time line  
11 so that the Board would be at least as informed as we are as  
12 to whether we got a chance of pulling this off. So in the  
13 next two weeks we would try to make a time line for this  
14 accelerated procedure.

15 COMMITTEE CHAIRMAN FRAZEE: The full permit would  
16 be the one I think where there would be the most controversy  
17 if we didn't get something done. Are there circumstances  
18 out there where there are noncomplying full permits that are  
19 going to fall over the cliff on that date?

20 MR. WHITNEY: I don't think so. Our survey did  
21 not indicate so. I think it's a matter of presumption that  
22 those -- it's presumed they're going to fall in the higher  
23 tiers, therefore you need the maximum time. They have to  
24 have the full CEQA process and a variety of other things, so  
25 I don't think people have been holding up much action on

1 those waiting for the tiers. However, we may have some  
2 evidence to the contrary, I'm not sure.

3 EXECUTIVE DIRECTOR CHANDLER: If I understood  
4 Mr. Frazee's question, I think I understood it a little  
5 different.

6 MR. WHITNEY: I'm sorry.

7 EXECUTIVE DIRECTOR CHANDLER: We'll see. As I  
8 understood your question to be do we have a potential  
9 problem out there that if we aren't successful you would see  
10 facilities needing to go the full permit route.

11 COMMITTEE CHAIRMAN FRAZEE: Well, that if we take  
12 these off at the bottom, that's where the problem is.

13 EXECUTIVE DIRECTOR CHANDLER: I see.

14 COMMITTEE CHAIRMAN FRAZEE: The noncontroversial  
15 ones. Are there some that are -- that would require a full  
16 permit that may not be completed by the date?

17 MR. WHITNEY: Presumably there are. However,  
18 there's nothing we can do for them anyway.

19 COMMITTEE CHAIRMAN FRAZEE: That's true.

20 MR. WHITNEY: They have to go through the full  
21 CEQA and the elaborate process. There's no way, short of  
22 emergency regulations, which is still an option, that we  
23 could solve their problem.

24 EXECUTIVE DIRECTOR CHANDLER: Those operators of  
25 MRFs or larger volume transfer station are proceeding.



1 COMMITTEE CHAIRMAN FRAZEE: They're all -- there's  
2 no one out there just ignoring it?

3 EXECUTIVE DIRECTOR CHANDLER: They are not banking  
4 on somehow getting a much lower tier. They're moving ahead  
5 and getting their permits in place.

6 COMMITTEE CHAIRMAN FRAZEE: So we have a  
7 reasonable expectation that those are going to get through  
8 the process?

9 COMMITTEE MEMBER RELIS: But your concern is still  
10 even in these small transfer stations which would seem to  
11 be --

12 EXECUTIVE DIRECTOR CHANDLER: There are about 12  
13 of those --

14 COMMITTEE MEMBER RELIS: Minimally.

15 EXECUTIVE DIRECTOR CHANDLER: -- and maybe more  
16 that aren't moving forward.

17 COMMITTEE MEMBER RELIS: They still move that  
18 slow?

19 EXECUTIVE DIRECTOR CHANDLER: Actually the LEAs  
20 are holding now under the presumption --

21 MR. WHITNEY: Waiting for the tiers.

22 COMMITTEE CHAIRMAN FRAZEE: For the tiers.

23 MR. DIER: Let me clarify that a little bit.

24 The survey indicated of those, about half of them  
25 were sort of holding in abeyance expecting to be slotted,

1 but that the others were in fact proceeding to try and get a  
2 permit, but for various reasons, whether it was  
3 environmental review or land exchanges, or whatever, that  
4 they sort of bogged down in the process and may not be  
5 expected to get that permit by October.

6 COMMITTEE CHAIRMAN FRAZEE: Well, if we're going  
7 to make it easier we ought to make it easier sooner, I  
8 think, and not have people waiting to do something.

9 EXECUTIVE DIRECTOR CHANDLER: Right.

10 COMMITTEE CHAIRMAN FRAZEE: I think the Option  
11 1 -- let's hear from Evan Edgar, because he wants to talk.

12 MR. WHITNEY: Before we do that, there are two  
13 other items of new information that I want to bring to the  
14 committee's attention before we have testimony. It could be  
15 relevant and they may want to speak to this.

16 I have gotten two correspondence by fax last  
17 evening. One is from the Environmental Services Joint  
18 Powers Authority, which is a JPA, Joint Powers Authority, of  
19 Amador, Del Norte and El Dorado, Glenn and a variety of  
20 other foothill counties it appears.

21 And expressing concern that is also in another fax  
22 from Lassen County at length, several pages, of the current  
23 concern being as to how we define a permitted or a  
24 nonpermitted facility, i.e., the example used in one of  
25 these faxes is a landfill which now has a transfer station

1 on the landfill property, but it's not included in the  
2 permit, whether we would declare that as an unpermitted  
3 facility that have to cease on October 16th, or would we  
4 simply say the landfill permit has to be revised to include  
5 in that operation, therefore it's outside this deadline.  
6 And they just expressed a concern or are expressing it.

7 So that would be something we would have to sort  
8 out as we proceed to make --

9 COMMITTEE MEMBER RELIS: That's pretty  
10 fundamental.

11 MR. WHITNEY: And we have to explore that. So  
12 those are two issues that came in by fax last evening.

13 The third one, I've already mentioned to you, in  
14 the correspondence received in the last several months from  
15 CRRC advocating that green waste processing facilities be  
16 included. And we would have to check that out fairly  
17 carefully and have some involvement from the industry and  
18 public in sorting that out.

19 Thank you, Mr. Chairman.

20 COMMITTEE CHAIRMAN FRAZEE: The point that I read  
21 in the one from the Environmental Services Joint Power  
22 Authority is their suggestion that AB 59 only apply to  
23 facilities that never had an operating permit.

24 MR. WHITNEY: That's the issue. And but inside  
25 that issue is what happens if you have a facility that is

1 within a facility? Can you blanket it with the parent  
2 facility's permit with a revision, escaping this deadline,  
3 or does it come under the category it's never had a permit,  
4 therefore you have to shut it down?

5 We're not presuming to answer that question at  
6 this moment, but that is a question we'd have to address.

7 COMMITTEE CHAIRMAN FRAZEE: Okay. Let's hear from  
8 Evan Edgar on this item.

9 MR. EDGAR: Good morning. My name is Evan Edgar.  
10 I'm the manager of technical services for the California  
11 Refuse Removal Council.

12 CRRC supports Option 1. AB 59 is very critical to  
13 this industry. I've been talking about this for the last  
14 few months at staff level and with Board members.

15 As always, I think that the survey that went out  
16 did not include some critical issues about green waste.  
17 I've been talking about green waste transfer stations during  
18 the compost regs for the last two years and recognize that  
19 those chip and ship and grind operations are not part of the  
20 compost regs, they've been excluded. However, under Title  
21 14 they are transfer stations and in January of '96 in front  
22 of the same committee we all acknowledged the fact that the  
23 green waste transfer stations were going to be included as  
24 part of the tiered permit slotting for transfer stations.

25 So I don't think that survey that went out to all

1 the communities, LEAs, included that question about chip and  
2 ship and green waste transfer stations.

3 I like the Option No. 1 because it asked for a  
4 choice. I'm not saying the choice that asked for is either  
5 get a full permit now or rely on the Waste Board for a  
6 tiered permit. We've been through that many times before  
7 over the last two years with compost regulations.

8 The last LEA advisory on any type of urban green  
9 waste topic was October 1994, which gives the same type of  
10 choice. It said either get a permit or wait until the  
11 tiered permits. That was fine under the compost regs  
12 because it was a dynamic situation.

13 That was before AB 59, and since AB 59 with the  
14 October 16, 1996, deadline in front of us it brings a whole  
15 new meaning to LEA advisories and a whole new meaning to  
16 getting information out to the LEAs to act on AB 59  
17 accordingly.

18 In retrospect I think that the LEA advisory was  
19 very helpful to get a lot of people aware of activities.  
20 That's one thing I've been stating for the last since  
21 October '95, since August '95, many letters to the Waste  
22 Board on this that LEAs need further advice not only on AB  
23 59, but on urban green waste management and tiered  
24 permitting.

25 In their regulatory reform report by Cal EPA the

1 only, the only action item was given to the Waste Board was  
2 the need to expand the use of LEA advisories. All the other  
3 Cal EPA agencies got hit pretty hard on many different  
4 issues, but over the last couple years on regulatory reform  
5 this Waste Board has done quite well with AB 1220, tiered  
6 permitting, et cetera.

7 And speaking to Cal EPA about it they really like  
8 the use of LEA advisories and I would recommend this as an  
9 opportune time to go forward and keep on expanding those  
10 uses on AB 59 and how to give the LEAs that choice to fully  
11 inform them that get a full permit now or wait for their  
12 tiered permitting. I don't think that the tiered permitting  
13 schedule for transfer stations will be there in time,  
14 October '96, in order to give them that option.

15 A lot of compost facilities did wait and now  
16 they're getting slotted and they're enjoying standardized  
17 permit and the registration permit. That worked then, but  
18 that is now.

19 One thing Mr. Whitney talked about was the  
20 facility within a facility. I've been on the radar screen  
21 for ten years as being a solid waste industry at MRFs and  
22 transfer stations and any time I had any type of significant  
23 change I would have to amend my RDSI. I wrote different  
24 report of station information for chip and ship operations  
25 for years at every facility I operated. I've been on the

1 radar screen and using an RSI method to explain a chip and  
2 ship operation, to make ADC, to make mulch, or make compost  
3 feedstock. It isn't that tough. I've been there many times  
4 and a lot of those facilities need it.

5 On Mr. Whitney's tour around California the last  
6 five months and in the state of the compost industry speech  
7 in January he did state that a lot of these chip and ship,  
8 they do have problems and then if I were to slot them, they  
9 would only be slotted in the registration permits. We're  
10 not looking at a full permit.

11 But once again AB 59 is there and October '96 is  
12 coming soon and I don't foresee that slotting happening  
13 sooner. I think it happens later.

14 So I would recommend that some LEA advisory gets  
15 put out on the streets to these chip and ship operations to,  
16 A, either get a full permit or if you're at a landfill or  
17 transfer station, to expand your RDSI or RSI to explain it.

18 All the people I have represent out there have  
19 used the RSI as a facility within a facility to be  
20 regulated. We have been regulated every month as part of  
21 the monthly tour by the LEA with regard to our chip and ship  
22 operations for ADC facilities and for mulch facilities.  
23 This is nothing new to us.

24 So this radar screen that some people claim  
25 doesn't apply to them, it applied for us many many years and

1 it's not that tough to comply with.

2 So I believe that the Waste Board has the  
3 authority. You have an action item from Cal EPA to use the  
4 LEA advisory. We have AB 59. And you have Option 1 in  
5 front of us. We have a choice.

6 So I think CRRC does concur with Option No. 1 and  
7 get the word out on the streets sooner than later.

8 Thank you.

9 COMMITTEE CHAIRMAN FRAZEE: Thank you.

10 Questions?

11 If not, then Larry Sweetser, representing Norcal.

12 MR. SWEETSER: Good morning. My name is Larry  
13 Sweetser, representing Norcal Waste Systems. Good morning,  
14 Chairman, members of the committee.

15 And we're also in support of Option 1. There's  
16 two reasons for that, I think.

17 And one is I think one of the best aspects of that  
18 option, and I think it needs to be stressed throughout the  
19 process, is that since we are looking at the facilities that  
20 pose little or no risk, and I think there's been a lack of  
21 definition on those things, we've been arguing these  
22 definitions for many years now, and I think one of the  
23 helpful parts of this process would be to help set that  
24 definition over what those facilities are that pose little  
25 or no risk. And that will give a lot of peopler clearer



1 guidance on whether they have a facility subject to  
2 permitting or an operation that's not.

3           So I think that as part of the process is going  
4 along, making that clear distinction would be helpful.

5           It's unfortunate we have AB 59 with a gun to our  
6 heads on this deadline, but nonetheless that's the case and  
7 so I think it also needs to be clear. And I don't know how  
8 many times we need to remind them, but I think it's  
9 definitely of need frequently to remind everybody that with  
10 this deadline looming of AB 59 on October 16th that's not a  
11 lot of time to process permits. So LEAs need to get those  
12 permits in for new facilities as soon as possible, otherwise  
13 they're going to have to prepare to invoke the cease and  
14 desist provision on 44002 on that date.

15           So I think with both of those combined going  
16 forward with Option 1 I think will be the best interest to  
17 at least get some resolution on these types of operations.

18           I also, on the item of those mixed facilities  
19 having facilities that do it both ways, either two permits  
20 on one piece of land or one permit, I think it's easy enough  
21 in those cases to -- probably be easier, given the  
22 circumstances, to probably modify or revise an existing  
23 permit to incorporate those than to try a new permit process  
24 for some of those, but maybe it should be left to the  
25 operator's option on which process they should pursue.

1 Sometimes one is more expedient than the other.

2 Thank you very much.

3 COMMITTEE CHAIRMAN FRAZEE: Thank you.

4 Any questions?

5 COMMITTEE MEMBER RELIS: More speakers?

6 COMMITTEE CHAIRMAN FRAZEE: Yes, we have one more.

7 Speaker Michael Robinson, representing the Allan Company.

8 MR. ROBINSON: Good morning. My name is Michael  
9 Robinson. I represent the Allan Company, which is a  
10 processor of -- we have 14 different facilities in the State  
11 of California and I mention that only for comparison's sake  
12 of the number that are apparently affected by the AB 59  
13 deadline as it's set.

14 AB 59 contains a lot of other provisions that  
15 require that the facility make application for a permit as  
16 of October of 1995 and that it be made 150 days in advance  
17 of the date that that facility is going to be operating, and  
18 that LEAs also have jurisdiction and authority to enforce  
19 that provision.

20 There's already existing law that requires that  
21 these places be permitted.

22 I don't have any objection to the Board  
23 entertaining some kind of an amnesty program, but it  
24 shouldn't be done at the sacrifice of all those facilities  
25 that have complied with the existing law and it shouldn't be

1 done at the sacrifice of all the facilities that are going  
2 to potentially be affected by rushing through what has been  
3 a long process.

4 I think everyone would agree that the process  
5 maybe has taken a little longer than anybody might have  
6 expected two or three years ago, but that doesn't mean that  
7 now is a good time to accelerate the process and perhaps at  
8 the risk of many many many facilities throughout the state  
9 being put into the wrong tier.

10 So I would ask that the Board please consider a  
11 remedy that is for the benefit of those that maybe aren't  
12 posing any kind of health or safety risk, that that's  
13 admirable, but that it also give due consideration to all  
14 the facilities that are going to be affected by perhaps  
15 rushing through the process.

16 My sense is that any time you try to do something  
17 a little bit faster than it was anticipated, and I think my  
18 schedule says maybe January of '97 was the expected date, so  
19 now we're looking at rushing this process through at six,  
20 seven, eight months faster, that the end result isn't going  
21 to take into consideration all the interests of all the  
22 facilities that are going to be affected by the tiered  
23 permitting.

24 Thank you.

25 COMMITTEE CHAIRMAN FRAZEE: Just on the issue of

1 the schedule that you indicated, that January '97 is the  
2 completion of the slotting.

3 MR. ROBINSON: Correct.

4 COMMITTEE CHAIRMAN FRAZEE: And I think the  
5 proposal we have before us is only dealing with a portion of  
6 the slotting and not completion of the --

7 MR. ROBINSON: It's my sense in attending all the  
8 workshops and all the discussions with other members of the  
9 industry that until you have all of the slots defined you  
10 really can't draw a line between one to the others. There's  
11 still some gray areas as all the efforts are made to  
12 characterize which facilities require full permit, which  
13 require standard, which would be in registration, which are  
14 notification. That until you know what the big picture  
15 looks like you can't really dissect and identify puzzle  
16 pieces.

17 Now, that may be my own interpretation of what's  
18 evolved from some of the workshops and some of the other  
19 discussions, but I think that it's difficult to suggest that  
20 because one facility handles 15 cubic yards of material that  
21 that's more dangerous than one that handles five cubic yards  
22 of a different kind of material or different process that  
23 implements a different process. So until everybody is out  
24 on the table and everybody is defined, there's really not a  
25 way to separate full from standard from notification from

1 registration.

2 And that by making the effort to identify one  
3 particular slot you may, in rushing through the process,  
4 certainly hope that this wouldn't be the case, but I'd hate  
5 to see facilities end up in the wrong place.

6 COMMITTEE CHAIRMAN FRAZEE: Okay. Thank you.

7 COMMITTEE MEMBER RELIS: Mr. Chair, as an  
8 observation.

9 COMMITTEE CHAIRMAN FRAZEE: Yes.

10 COMMITTEE MEMBER RELIS: The way I heard it,  
11 Option 1 was first the focus was on the small quantity  
12 transfer stations.

13 And then Mr. Edgar has brought up the chipping,  
14 chip and ship.

15 Let's talk to for a minute on that point.

16 Now, no issue on the accelerating the-small  
17 transfer station. That's been the identified need.

18 When it comes to the chip and ship and grinding,  
19 we had lengthy, and years meaning lengthy, discussion on the  
20 green waste and who is in and who's out and definitions of  
21 who's in the system.

22 Now, I would expect that if we were to accelerate  
23 that matter and bring it forward we're going to have quite a  
24 bit of controversy over that again, because that was the  
25 whole compost debate.

1           And putting that on a fast track with the small  
2 quantity transfer is my concern here, because that's going  
3 to take some -- well, that's going to involve elaborate  
4 testimony. And I can hear what that testimony is. I think  
5 some of it is recorded perpetually in my mind.

6           So I would just draw that distinction. Some of  
7 the other members were not here at that time and it brings  
8 it all forward.

9           So I'm wondering if we could clearly dispense with  
10 the Option 1 being focused on the small quantity transfer  
11 station, accelerate that on the basis of an identified need.

12           I'm open to looking at the chip and ship, but I  
13 don't see how we can do that on an accelerated basis.

14           MR. WHITNEY: If I may respond, Mr. Chairman.

15           COMMITTEE CHAIRMAN FRAZEE: Yes.

16           MR. WHITNEY: I agree that certainly that opening  
17 up the question of including fast track, particularly the  
18 chippers and grinders and other subcomposting organic waste  
19 processing would generate a lot of controversy.

20           If we were to go ahead as Mr. Edgar suggests and  
21 address the issue, I believe we would have to come to your  
22 Board very early with a threshold question as to whether you  
23 agree that that category is in a category that is consistent  
24 with the transfer station category.

25           So we would have to dispose of that question,

1 because if we included it in process there's no way we can  
2 fast track it for the reasons you state. It will be very  
3 controversial and we'll have to have a lot of testimony.

4 COMMITTEE MEMBER RELIS: How do you propose we  
5 make that decision?

6 MR. WHITNEY: I believe that you need some staff  
7 analysis before you as to what the definitions are here.  
8 Mr. Edgar and I have had some conversation about this.

9 And I believe that we'd have to frame the issue  
10 for you within the law, conferring with legal, our staff,  
11 our experience, the LEAs, and try to frame that issue for  
12 you very early in the process and have you make a  
13 determination that you either believe it is in the category  
14 that ought to be included within the analysis of the  
15 transfer stations or excluded and handled in some other tier  
16 in some other process.

17 COMMITTEE MEMBER RELIS: But it's not described  
18 like that in this option.

19 MR. WHITNEY: No. Because, yeah, but it does in  
20 the option or in the discussion here, it does include the  
21 idea of the green waste processing.

22 COMMITTEE MEMBER RELIS: Because, see, again I  
23 only bring this up for reference to other members, a lot of  
24 those parties I think left or signed on and then the whole  
25 agreement on the compost regs, they left after the decision

1 thinking they were out and now they would be -- this would  
2 be resurfacing again and they would go, oh, we thought that  
3 was behind us, what's the plan of action here.

4 MR. WHITNEY: I agree. And it's certainly you  
5 could as a committee and as a board decide that issue right  
6 now and say they're not included in the direction you're  
7 giving staff. You want it to be the traditional, I use that  
8 word advisedly, the transfer station category, which would  
9 not only include the small volume transfer, we would also  
10 slot all transfer stations. The presumption being the small  
11 volume would be the lower tiers probably and the big ones  
12 are going to have full permits or standardized anyway so why  
13 not deal with them all, slot them and be done with it.

14 So you can decide that here as a committee and the  
15 staff will be directed if you want to include the chippers,  
16 grinders, other green waste processing activities within  
17 this same category or not.

18 But we as a matter of staff, if you decide to  
19 leave it in for the moment we're going to have to come to  
20 you very soon and have you address that issue, because I'm  
21 afraid it would bog down the whole purpose we're trying to  
22 do this for, as you've indicated, Mr. Relis.

23 COMMITTEE CHAIRMAN FRAZEE: That is something that  
24 I missed that whole discussion. Maybe in 15 words or less  
25 why is there controversy associated with a chipping



1 operation?

2 COMMITTEE MEMBER RELIS: Well, the chippers, if I  
3 may take it on myself to recall some of those discussions,  
4 they said, look, we're picking up green material from  
5 somebody's yard and we're bringing it to a chip yard and  
6 we've never been in your permitting process and we don't  
7 want to get near it and you don't have -- they're basically  
8 very antagonistic towards that approach and we're not part  
9 of the traditional solid waste system because we've been  
10 operating outside of that historically.

11 So that was one of the -- that was their side of  
12 it.

13 And I don't even want to hit -- Evan, you should  
14 describe it, since you're here.

15 MR. EDGAR: To clarify my testimony, I didn't  
16 recommend to fast track the green waste transfer stations  
17 because I think it's possible to hit the October deadline.  
18 What I recommended was I was pro-choice, never waiver on  
19 pro-choice. I'm pro-choice with regards to giving the LEA  
20 advisories, the advice they need early on to tell them get a  
21 full permit now as opposed to waiting for this illusive  
22 tiered permit such as happened in compost over two, two and  
23 half years, because we're out of time.

24 Getting on a solid waste issue is that every time  
25 I do a chip and ship at any one of my facilities, the LEA

1 crawled up my permit and we had to go in and permit revision  
2 and we're inspected every month.

3 So it was the traditional solid waste managers out  
4 there have modified their permits many times, or RSIs, and  
5 as routine practice.

6 So it goes back to that great issue of permit  
7 equity where we are on the radar screen, we have been  
8 regulated every month and we run operations with 72-hour  
9 holding time, we have so many tons per day, we get it out to  
10 our marketplace. And, boom, it's the people who are outside  
11 of the permitted facility, outside of the solid waste  
12 industry, who are in the back 40 who have never been on the  
13 radar screen who claim to be nontraditional who want to be  
14 outside of the radar screen.

15 So whereas we're continued to be permitted, the  
16 chip and shippers continue to elude the process and what's  
17 in front of us today is trying to bring this permit equity  
18 back where slotting count happened, we have been through  
19 this tease once before on composting, it took a long time,  
20 and I don't see it happening again.

21 So get the LEA advisory out and say get a full  
22 permit for these facilities until the tiers happens, because  
23 there are problems out there and the LEA is out there  
24 statewide, give us violations within Title 14, and legal  
25 counsel in January stated they were transfer stations. So

1 my advice is not to fast track green waste but to give the  
2 LEAs the information to fully permit them until such time  
3 they are slotted.

4 The solid waste industry has paid the price of the  
5 permit, but that's why we've been pushing tiered permitting  
6 for four years was to lower the level down.

7 I don't foresee anything beyond the registration  
8 permit for most of the chippers and grinders out there and  
9 since they are not composting, they're only out there  
10 stockpiling, they're not part of the compost regs, but they  
11 are making ADC and the reason they're a transfer station,  
12 you got green waste coming in, you got green waste coming  
13 out, and the court decision on ADC says everything's waste,  
14 it's a solid waste, it's not diversion, it's disposal.  
15 Since you got green waste coming in, you got green waste  
16 coming out, that's a transfer station.

17 So that's the argument in front of you today. I  
18 recommend a LEA advisory out to clear this issue up with the  
19 LEAs, because they're wanting to know. And there's some  
20 LEAs in the crowd today that probably want to know as well  
21 and I suggest the LEAs may have an opinion about this as  
22 well.

23 Thank you.

24 MR. WHITNEY: If I might, Mr. Chairman, also put  
25 it in, I think, in another context.

1           When we excluded chippers and grinders from the  
2   compost regulations, I believe Mr. Relis is correct, most  
3   went away saying, ha, whew, we're out of it.

4           Technically speaking, however, that's not true.  
5   Technically speaking they're still handling what is  
6   classified as a solid waste, therefore could be subject to  
7   be placed in other tiers.

8           And, if not, the LEA can, if they're having  
9   problems, I think I discussed this a bit in my report in  
10   January, the LEA is having problems, may pursue the option  
11   of requiring a full permit of these facilities, because they  
12   are waste processing facilities. And I think that's the  
13   linkage that Mr. Edgar is trying to point to here. There is  
14   a linkage and just because they are not in the compost regs  
15   doesn't mean that they may not be addressed by this Board in  
16   some other way. So that's a little different context.

17           COMMITTEE MEMBER RELIS: That the gist.

18           MR. WHITNEY: But it's just as controversial  
19   either way.

20           COMMITTEE MEMBER RELIS: It is.

21           EXECUTIVE DIRECTOR CHANDLER: It also, I think,  
22   needs to be reemphasized, because I'm getting a slightly  
23   different read from you, Mr. Relis, our Option 1 states that  
24   this option would slot chipping and grinding and smaller  
25   operations which are not covered in the compost regulations

1 and presumably constitute a transfer station, as Mr. Whitney  
2 indicated. That threshold question is the very first thing  
3 we come forward with. That is included in our Option 1.  
4 It's stated right there.

5 COMMITTEE MEMBER RELIS: I know it is. I pointed  
6 that out and the question --

7 EXECUTIVE DIRECTOR CHANDLER: I think Option 2  
8 appears to deal more with just the transfer station without  
9 the --

10 MR. WHITNEY: Frankly, you could help a whole lot  
11 to clarify the issue today as to how you want to proceed,  
12 otherwise we're going to have to go back, and we're glad to  
13 do this of course, and do the staff work and frame the issue  
14 for you as clearly as we can to either draw a distinction  
15 that we believe is substantiated by the law and then have  
16 you make a decision on what the appropriate process would  
17 be, whether it be a longer term, put it on another track, or  
18 include it in this group.

19 My only concern is that we're making a commitment  
20 to you to try to solve a problem with this gun to our head  
21 of October 16th. We feel fairly confident we might have a  
22 good chance of doing that if we're talking about the  
23 traditional transfer stations.

24 COMMITTEE MEMBER RELIS: And I'm comfortable with  
25 that part.

1 MR. WHITNEY: If we're drawn into the green waste  
2 issue, I agree with Mr. Relis' perception that that may bog  
3 us down on both categories.

4 COMMITTEE CHAIRMAN FRAZEE: Okay. Are we ready?

5 COMMITTEE MEMBER RELIS: Well, Mr. Chair, I'll try  
6 something. I'm in agreement that we pursue Option 1,  
7 restricted to the small transfer stations.

8 I need to think before I leap into the second  
9 round of that with the chip and ship. I'm not prepared to  
10 act on that today.

11 MR. WHITNEY: Point of clarification. You said  
12 small transfer. We're really recommending dealing with the  
13 whole category of transfer stations.

14 COMMITTEE MEMBER RELIS: I'm sorry. Small -- yes,  
15 because we have an identified need there, a critical need.

16 EXECUTIVE DIRECTOR CHANDLER: I guess-I'm confused  
17 with your recommending Option 1.

18 COMMITTEE MEMBER RELIS: Modified Option 1.

19 Knocking out, in my Option 1, the, for the  
20 purposes of today, the chip and ship and grinding. It would  
21 stop at -- let's see, maybe the best way to do it would be  
22 to read it. Accelerate the tiering and slotting of those  
23 facilities posing little or no risk, the extremely small  
24 volume transfer stations and facilities processing waste  
25 which pose little threat to public health, safety or the

1 environment. Period.

2 That's the Option 1 that I'm proposing.

3 EXECUTIVE DIRECTOR CHANDLER: And we could even go  
4 on to say this option would enhance the use of the smaller,  
5 more frequently moved bin type operation. Period.

6 COMMITTEE MEMBER RELIS: Yes.

7 EXECUTIVE DIRECTOR CHANDLER: Stop there.

8 COMMITTEE MEMBER RELIS: That's correct.

9 EXECUTIVE DIRECTOR CHANDLER: But you didn't --

10 MR. WHITNEY: Deleting off the chipping --

11 EXECUTIVE DIRECTOR CHANDLER: That's a modified  
12 Option 1. I understand.

13 BOARD MEMBER PENNINGTON: Option 1-A.

14 COMMITTEE MEMBER RELIS: Option 1-A.

15 COMMITTEE CHAIRMAN FRAZEE: That's your motion?

16 COMMITTEE MEMBER RELIS: Yes.

17 COMMITTEE CHAIRMAN FRAZEE: I will second that,  
18 although under discussion I would like to see the  
19 acceleration of the chipping and grinding operation also.

20 So but we will go with what we have. We have a  
21 motion before us.

22 COMMITTEE SECRETARY WEBB: Board Member Relis.

23 COMMITTEE MEMBER RELIS: Aye.

24 COMMITTEE SECRETARY WEBB: Chairman Frazee.

25 COMMITTEE CHAIRMAN FRAZEE: Aye.

1           And that item will go directly to the Board as a  
2 recommendation from the committee.

3           Now, we have, according to my agenda, open  
4 discussion. Anyone here to be heard on anything?

5           I have no requests to speak.

6           Anything else to come before the committee?

7           If not, we stand adjourned.

8           (Thereupon the meeting was adjourned  
9 at 11:15 a.m.)

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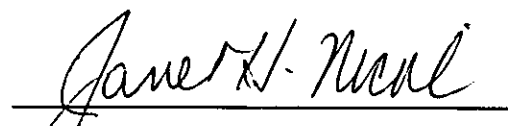


## CERTIFICATE OF SHORTHAND REPORTER

I, JANET H. NICOL, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that I reported the foregoing meeting in shorthand writing; that I thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of March 1996.

  
Janet H. Nicol  
Certified Shorthand Reporter  
License Number 9764